

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

APPLN. NO.: 10/797,379

CONFIRMATION NO.: 3235

APPLICANT: Carolyn Taylor

ART UNIT: 2616

FILED: March 10, 2004

EXAMINER: Kao, Wei Po Eric

TITLE: Method and Apparatus for Processing Header Bits and Payload Bits

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Assistant Commissioner for Patents
Alexandria, Virginia 22313

Dear Sir:

Request for Review

The application stands subject to a Final Office Action mailed on May 13, 2008, and this pre-appeal brief review is respectfully requested. A Notice of Appeal accompanies this request. Claims 1-19 are pending in this application.

Arguments re: Yoshimura

Rejection Summary

Applicant respectfully submits that the Examiner's May 13, 2008 Final Office Action omits one or more essential elements needed for a prima facie rejection and contains a clear error because one or more limitations are not met by the cited references. Independent claims 1, 8, 12, and 15 stand rejected under 35 U.S.C. § 103(a) over US 7263064 (Yoshimura) in view of US 20010033560 (Tong).

In an Advisory Office Action mailed on August 1, 2008, page 2, lines 8-10, the Examiner states that in Yoshimura "...since each packet is either classified as a real-time packet or a data packet and each packet comprises plurality of header bits and payload bits, each individual bit of the classified packet is also classified." Applicant respectfully disagrees with the above statement. In Yoshimura, classification is done at a packet level, and not at a bit level. For example, when a packet is classified as a data class, header and payload bits in the packet are

also classified as the data class. Thus, Yoshimura fails to disclose that a first portion of header bits/payload bits in the packet is classified as a data class, and a second portion of header bits/payload bits in the same packet is classified as a real-time class. Conversely, Applicant's independent claim 1 recites that the classification is at a bit level, where each bit in the packet is classified into a particular class. Claim 1 thus patentably distinguishes over Yoshimura.

The Examiner's asserts, on page 2, lines 19-20 of the advisory Office action, that in Yoshimura "there are two mechanisms, namely an allocated band and the priority of the QoS class, used each time to select a classified data unit for transmission." However, in Yoshimura, both the mechanisms are applied to all the divided data units, to select a classified data unit for transmission. Thus, Yoshimura fails to disclose that the first mechanism is applied to a first set of data units, and the second mechanism is applied to a second set of data units. In contrast, Applicant's claim recites "processing the first predetermined class of bits, in the frame, in accordance with a first predetermined mechanism; and processing the second predetermined class of bits, in the frame, in accordance with a second predetermined mechanism." Claim 1 thus patentably distinguishes over Yoshimura.

Further, Tong, and Tong fail to overcome the deficiency of Yoshimura in that Tong also does not describe the above mentioned limitations.

Regarding independent claims 8, 12, and 15, Applicant respectfully submits that the above remarks apply equally to the features of claims 8, 12, and 15. Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claims 8, 12, and 15 under 35 U.S.C. § 103 (a) in view of Yoshimura and Tong.

Prayer For Relief

In view of any amendments and the discussion above, the claims of the present application are in condition for allowance. Kindly withdraw any rejections and objections and allow this application to issue as a United States Patent without further delay.

Respectfully submitted,

Please send correspondence to:
Motorola, Inc.
Intellectual Property Dept.
600 North US Highway 45
Libertyville, IL 60048
Customer Number: 20280

<u>/HISASHI D. WATANABE/</u>	<u>10/13/2008</u>
Hisashi D. Watanabe	Date
Attorney for Applicant	
Registration No. 37,465	
Tel.No.(847)523-2322	
Fax No. (847) 523-2350	
Email: docketing.libertyville@motorola.com	